IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

1.S.B. CIVIL WRIT PETITION NO.2335/2002- TARA CHAND VS. STATE OF RAJASTHAN & ORS.

2.S.B. CIVIL WRIT PETITION NO.2336/2002- AMARA RAM VS. STATE OF RAJASTHAN & ORS.

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 15th December, 2006

PRESENT

HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr.R.S. Chundawat, Advocate, for the petitioner.
Mr. R.Dave, Dy. Government Advocate for the respondent-State.
Mr.B.P. Mathur, Advocate, for the respondents.

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BY THE COURT:

The aforesaid two writ petitions raise a common question of law and facts therefore they are being taken up for hearing and are being decided by common judgment.

The respondents issued an advertisement inviting

applications and for selection on the post of para teacher in Rajiv Gandhi Pathshala. The applications were to be submitted on or before 16.5.2002 against the two posts in Gram Panchayat Raira Kallan, one for village Mindaron Ki Dhani and other for Kali Kankar. Both the petitioners submitted their forms on 14.5.2002. The meeting of the Gram Panchayat for making selection on the post of para teacher was called on 20.5.2002. There were in all 18 aspirants for such appointment who were present before the selection committee. The petitioner Tarachand has assailed the appointment of Sohanlal (respondent no.6) in writ petition no.2335/2002 who was appointed on the post of para teacher at Meendharon Ki Dhani whereas petitioner Amara Ram in writ petition no.2336/2002 has challenged the appointment of Shri Hanumana Ram Gehlot (respondent no.6) who was appointed as para teacher it Kali Kankar Rayra Kallan. According to the petitioner, he has secured 49.4% marks whereas the respondent no.6 who has been appointed as para teacher at Meendharon Ki Dhani has only secured 39.12% marks. Similarly, the petitioner Amararam has also alleged that while

he was having 63.93% marks but the respondent no.6 -Hamumanaram Gehlot secured only 44.24% marks was preferred for appointment. Their allegations in both the writ petitions are common that less meritorious persons were preferred for appointment by way of exerting undue influence and the respondents have arbitrarily selected aforesaid persons. The meeting of the selection committee for appointment was called on 20.5.2002 at Panchayat Bhawan and all the candidates were present there including the private respondents. The meeting was adjourned on that date but the next date was not notified and it was stated that they will inform about the next date latter. A meeting was shown to have been convened behind the back of the petitioners on 26.5.2002 in which the private respondents were selected. According to petitioners, the records were manipulated to show that petitioners did not appear before the selection committee on 26.5.2002 whereas when they came to know that the meeting was going to be held on 26.5.2002, they reached at the Panchayat Bhawan right at 7.00 AM in the morning and stayed there upto 8.00 PM but in fact no one was available

there. Thereafter it transpired that all the formalities were completed at the residence of Sarpanch in which the private respondents were selected. The Sarpanch of the Gram Panchayat appeared at 10.00 PM at the Panchayat Bhawan and asked the petitioners to sign the proceedings of the selection which they denied. The petitioners submitted their representations before the Parivedana Samiti but the same was rejected in a casual manner by order dated 31.5.2002. The petitioners later came to know that the private respondents were selected due to influence of one Abhaya Ram Choudhary, who is the member of Parivedana Samiti.

Although the respondents in their reply to the writ petition have denied the averments of the writ petition and have asserted that since the petitioners did not participate in the proceedings of selection, they could not be selected whereas the private respondents appeared for interview therefore they were selected. The allegation of malafides are liable to be rejected because there are no specific material to show as to in what manner the respondents were biased in favour of the official respondents.

Having heard learned counsel for the parties, I am satisfied that the respondents have committed an apparent illegality in ignoring the claim of more meritorious candidates. The manner in which the first meeting called on 20.5.2002 was postponed and second meeting was convened on 26.5.2002, then selections were made behind the back of the petitioners leave much to be desired. When there were 18 applicants it was expected from the respondents to have selected only two most meritorious candidates amongst them with due notice of date as well as place of meeting. Clearly, selection of the

private candidates is an example of not only arbitrariness but favoritism. Such selection cannot be upheld in the law.

In the result, the writ petitions are allowed. The selections of the private respondents Sohan Lal and Hanumana Ram Gehlot are held illegal. The proceedings of the Gram Sabha vide Annex.2 dated 26.5.2002 are quashed and set aside. The respondents are directed to hold fresh selection within a period of two months by duly advertising the post and considering all the eligible persons in accordance with law.

There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.

c.p.goyal/-